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August 14, 2020

Representative Tom Craddick
Chairman
Land & Resource Management Committee

Via E-Mail: Tom.Craddick@House.Texas.Gov

Dear Representative Craddick:

The City of Georgetown respectfully submits its responses to Interim Charges 1, 2, and 3 that were included in the July 20, 2020 House of Representatives Notice of Formal Request for Information submitted by the Land & Resource Management Committee as follows:

Interim Charge 1: Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including HB 347, which eliminates the distinction between Tier 1 and Tier 2 counties and municipalities so that all cities are prohibited from using forced annexation. Determine if there is a need for further annexation legislation in Texas. Study how implementation of voter-approved annexation impacts the need for extraterritorial jurisdiction.

City of Georgetown Response:

Regardless of annexation, cities have a vested interest in the form and function of the area surrounding existing city limit boundaries. Consistent subdivision regulations ensure adjacent subdivisions are developed under the same criteria, which in turn helps create a unified and harmonious urban area. A disjointed transportation network that would form from using county versus city long range transportation plans can lead to unintended consequences including the lack of adequate utilities extensions. Further, the cities and special utility districts provide water and/or wastewater; it is important for utility providers to have a role in subdivision development.

Interim Charge 2: Review, in coordination with the Office of Attorney General, the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code. Identify any omitted information which can enhance the landowner's understanding of the condemnation process and determine whether any other changes should be made to the document to make it more user friendly. Determine whether it would be beneficial for the legislature to be more prescriptive in statute 2 with the mandatory contents of the LBoR.

City of Georgetown Response:

The Landowner's Bill of Rights is an effective, important tool for the City of Georgetown to begin discussions of eminent domain with landowners. This tool provides the opportunity for City staff to demonstrate upfront that our intention is to respect their rights throughout the process. The document in its current form is concise and understandable – explaining complex concepts to landowners. The current requirement to mail and provide the document on our website make it accessible and provided in a timely manner. A more prescriptive, complex version would undermine the use of the document as a transparent, approachable tool for public entities.

Interim Charge 3: Study property owner's rights in eminent domain to examine and make recommendations on what should and should not constitute an actual progress to ensure the right of property owners to repurchase property seized through eminent domain by a condemning entity.

City of Georgetown Response:

The current requirements of the Texas Property Code for public entities – to ensure actual progress of a project within 10 years – is more than a sufficient time requirement. Large public projects take time to design, fund, plan, and construct – a more limited timeline would unnecessarily hinder public improvement projects. Additionally, a shorter timeframe would foster more difficulty and misperception for both public entities and property owners. Georgetown, Texas is a growing community and City staff strives to identify and resolve needs in advance – saving taxpayer money. The City of Georgetown is currently able to purchase the ultimate right-of-way for projects which also allows for landowners to understand the full vision of the project. Further definition of “actual progress” seems unlikely to clarify landowners’ rights while undermining the ability for communities like Georgetown to undertake the complex and ambitious projects necessary to serve our fast-growing community.

Respectfully submitted,



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**COALITION FOR
CRITICAL INFRASTRUCTURE**
* CONNECTING TEXANS *

August 14, 2020

To: Chairman and Members
Texas House Committee on Land & Resource Management

From: Coalition for Critical Infrastructure
Lisa Kaufman, General Counsel, Texas Civil Justice League

Subject: Interim Charge 3 Comments
Actual Progress

On behalf of the Coalition for Critical Infrastructure (CCI), thank you for the opportunity to provide comments regarding Interim Charge Number 3, which directs the committee to review what should and should not constitute actual progress to ensure the right of property owners to repurchase property obtained by eminent domain.

The Coalition for Critical Infrastructure (CCI) includes both public and private entities with condemnation authority that help make Texas the 10th largest economy in the world. CCI members are dedicated to the state's ability to grow and prosper. The Texas Constitution recognizes that the use of eminent domain to acquire property for public use. CCI strongly believes in a strong and durable framework that treats property owners respectfully and fairly, promotes the efficient and timely resolution of disputes, and strengthens long-term relationships between property owners and infrastructure development.

In 2011, SB 18 made significant changes to Section 21.101 to the Property Code, introducing the concept of "actual progress" and creating seven parameters for use in making that determination. An entity meeting two of these parameters would satisfy the requirements for "actual progress". These provisions created the balance needed to protect the rights of property owners while allowing for critical infrastructure to progress, especially by local government entities which often need years, or even decades, to acquire financing and complete large scale projects, such as road infrastructure, waste disposal, flood control, drainage projects, public hospitals and parks.

While it is unfair for a condemnor to acquire property for a project which never gets built, placing unrealistic time limits and restrictions on large scale public projects is likewise unwise and a waste of taxpayer dollars. If the Legislature determines changes are needed to the "actual progress" provisions, CCI respectfully requests applying a thoughtful approach to distinguishing between types of infrastructure projects.

CCI looks forward to working with the committee next session on reforms to the eminent domain process that provide transparency and accountability for landowners while maintaining the ability of Texas to build the infrastructure that our growing economy and population requires.

Thank you for your consideration and for your tireless service to the people of our state.

Donovan Maretick

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Waller Texas 77484

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Good afternoon,

My name is Donovan Maretick and I am one of the many that has been under the extreme pressure and stress that a landowner receives when notified that someone wished to take what is lawfully mine. I purchased 25 acres of land in Waller County to build our forever home on and raise my autistic son who does not do well with loud noises. I am also a veteran who has saved most of my life to purchase this piece of land. In 2016 I was first contacted by Texas Central High Speed Rail and they tried to purchase my property but I explained to them that it was not for sale. Later that year on the 4th of July weekend, I received the below letter threatening legal action if I did not allow them access to survey my property. Up to this point I still had not received a land owners bill of rights. I felt like I had no options so I did some quick research and discovered that the Texas State Comptrollers office had this entity listed as an organization that held eminent domain authority. If I hadn't read the small print on the website, I would have stopped there but it stated that these were not verified and they may have had it and lost it or may have never had it at all. The problem here is perception. For many people perception is reality. Over the past four years Texas Central has stated and numerous news agencies have reported that Texas Central possesses eminent domain authority. After Speaking with the Lt. Governors office, they stated that it was not illegal to say you have eminent domain but merely unethical.

Later that same year Texas Centrals representative Jaylon Jacobsen met with me and made me a options offer which I declined. At this point he did provide me with a land owners bill of rights. I asked him what would happen if I did not take his offer and he firmly stated that they would simply take my property through condemnation. This process is flawed and as a land owner, I felt helpless. In my opinion, before an entity to claim they have eminent domain authority, they should be vetted by a state or federal official and be able to provide a land owner with proof. We all know today that Texas Central still does not possess and hopefully never gets eminent domain authority. Also the land owners bill of rights in this case was used like a sheriff uses his badge. They presented it to me showing proof that they had the authority although I was smart enough to know they did not. The system is broken and I can only pray that you provide us some relief from entities trying to wield eminent domain like a gun in a bank robbery as it is happening every day and under your watch by Texas Central. Please call me if you have any questions.

Respectfully,

Donovan Maretick



TEXAS
CENTRAL
RAILROAD &
INFRASTRUCTURE

Via Certified Mail and Regular Mail

Tract No. 182849, 241809

July 1, 2016

Donovan Maretick, Kelly Maretick

Dear Donovan Maretick, et al.,

This is Rene Richards with Contract Land Staff, LLC. I am writing to you about the proposed high-speed rail system connecting North Texas and Houston being built by Texas Central Railroad & Infrastructure, LLC (TCRI). You have previously been asked to permit various examinations and surveys of your property to help inform the environmental review process and determine the location of the route. Either verbally or in writing, you made it clear that you would not consent to these requests.

In order to reach agreement and avoid the necessity of legal action, TCRI believes information from a lineal survey and environmental/wetlands/social/cultural examination will suffice for the needs of the project. Therefore, a modified survey permission form allowing these activities is attached. If you are willing to allow a lineal survey and environmental/cultural examinations of your property, please contact me at (281) 685-7259 or Rene.Richards@ContractLandStaff.com.

I hope this revised request is something with which you will consent. However, given your previously communicated refusal to agree to the requested activities, if I do not hear from you within the next 7 days, I will assume that you continue to be unwilling to grant your permission. In that case, I will refer this matter to Jackson Walker, LLP. You or your attorney may contact Jackson Walker, LLP by calling (512) 236-2000.

Thank you for your prompt attention to this matter.

Sincerely,

Rene Richards
Right of Way Supervisor

Texas Central's Commitment to Landowners:

- Respect ■ Good Faith Negotiations ■ Fair and Transparent Land Purchase Process ■
- 100% Compliant with Texas Law and "Texas Landowner Bill of Rights" ■



August 14, 2020

The Honorable Representative Tom Craddick, Chair
Texas House of Representatives Committee on Land & Resource Management
Room E2.136
P.O. Box 2910
Austin, TX 78768

Via electronic mail to tom.craddick@house.texas.gov

RE: Request for information regarding interim charges

Dear Chair Craddick and Committee Members:

Thank you for giving El Paso County the opportunity to respond to the Committee on Land & Resource Management's interim charges.

Charge 1, regarding annexation and House Bill 347 (2019)

Population in the unincorporated area of El Paso County has increased significantly over the past decade. While the County's population has increased an estimated eight percent since 2010, various census tracts located outside of municipalities have grown at rates nine to 12 times faster than that—nearly doubling in populations in eight years. This level of growth is unprecedented and places an increased demand on the County's already strained ability to provide various municipal-style services, including maintenance of new residential roadways, construction of major thoroughfares and arterials, mitigation and control of stormwater and flood hazard areas, construction and maintenance of new park and recreational facilities and other expectations for suburban development. Rising to provide this increased demand for suburban services is further challenged by property tax revenue limitations also imposed by the Legislature in Senate Bill 2 (2019). This shift in service delivery responsibility, caused by further limiting municipal annexation practices, places the duty on counties, which are severely limited in their land use authority and revenue generation resources.

One area for additional consideration is the problem of small parcels of land that are surrounded by properties located within a municipality, but that remain unincorporated after historic annexation practices. Specifically, for counties along the US/Mexico border, these unincorporated "donut holes" may be identified *colonias*, communities lacking access to basic infrastructure services, including potable drinking water. The jurisdictional issues that arise from these donut holes create a number of challenges to providing for the health, safety and welfare of residents in those communities. This extends beyond infrastructure, such as water and wastewater service; it's also a challenge to provide critical emergency services to these communities. For example, a municipal fire department won't respond to an unincorporated area even when its fire station is closer than an emergency service district's station. Legislation to address these unique

circumstances may be necessary to ensure all Texans gain access to basic infrastructure and emergency services.


Charge 3, regarding eminent domain

El Paso County has had great success in constructing a number of critical infrastructure projects for the community throughout cooperative and voluntary land transactions. As the El Paso community continues to grow, the County has emerged as a leader in providing regional transportation solutions between different municipalities and regions throughout the community. When purchasing property voluntarily, the County continues to honor the rights of private property owners to receive a fair market price for the purchase of their land.

Use of eminent domain would always be a last resort for El Paso County. However, the eastern portion of the County presents unique challenges that may leave the County with no other option than use of eminent domain. Specifically, growth in East El Paso County is being stymied by land which can't be profitably developed because it does not comply with model subdivision rules. During the 1950s through early 1980s, large tracts in El Paso County were subdivided into small "fractionalized lots" and sold to thousands of individuals on speculation they would be good investments. However, today these "fractionalized lots" have little resale value because they have no infrastructure. Further, absent land owners make it difficult to acquire property for development. As of 2019, it was estimated that there over 54,000 acres of such undevelopable lots within El Paso County. The challenges they create extend to acquiring the necessary right-of-way for some critical regional thoroughfares currently under design and funded by the El Paso Metropolitan Planning Organization. It is critical that El Paso County continue to have access to prudent use of condemnation to ensure necessary infrastructure projects continue to move forward to serve our community.

Thank you again for this opportunity to offer comments on the Committee's charges. Please do not hesitate to contact the County should you have any questions.

Sincerely,



Daniel F. Collins
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August 14, 2020

The Honorable Tom Craddick,

We are involved with the Targa Grand Prix exporting Pipeline and the Enterprise Pipeline that was domestic use and has now been changed to exporting with no notice from the company. We have witnessed the damage to our land, water, and livelihood. These pipelines have destroyed the value of our ranch.

It is wrong for a private company to seize private property in Texas for their profit and benefit. The Texas Landowner Bill of Rights is a joke. It gives landowners rights then takes them away with an EXCEPT at the bottom. You should then put at the end of that except all the rights taken away.

It is wrong to seize private property with no regard for the input from private property owners who are paying taxes, low ball financial compensation, not being able to participate at the beginning of these projects with input at the permit level, and no environmental impact considerations.

It is wrong for pipeline companies to change pipelines from domestic to exporting and not renegotiate with the landowner. The original intent of the contract has changed and is no longer valid.

It is hypocritical to have landowners believe they have rights, when the State of Texas has taken all our rights away and given them to the oil companies.

Laws need to be made that make the oil companies pay landowners yearly based on income made for the use of their land by these exporting pipelines forever just so these greedy oil companies can make billions. There should be no eminent domain for exporting pipelines. Exporting pipelines are not domestic use pipelines and there is no justification for eminent domain to be used. They do not benefit the American public. That's a big injustice.

Thank you for this opportunity to comment.

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August 14, 2020

Tom Craddick
Chairman
House Committee on Land and Resource Management
Austin TX 78701

Dear Tom Craddick:

I am a long-time resident of our great state of Texas and am writing to express my concern about the Eminent Domain laws in Texas as they pertain to the oil and gas industry.

We have a ranch just outside of Wimberley and the Permian Highway Pipeline is going through our 1,146 acres. The last two years have really been an education on our Eminent Domain laws.

Although I agree with the principle of Eminent Domain (for the good of the citizens of Texas), I have come to understand the oil and gas industry is able to use the powers of Eminent Domain for their own profit. Furthermore, very little is asked of the oil companies in terms of routing decisions, environmental impact and land owner compensation. As a citizen of a state that prides itself on being a champion for private land owners, I find this to be shocking. If for profit oil and gas companies are going to be allowed to use the powers of eminent domain, the problems that need to be addressed must include:

1. They are ***held accountable to the citizens of Texas*** with laws implemented that are designed to protect the interests of the land owners first and the profiteering oil and gas industry second. The strength of the law in favor of the land owner would hopefully give the land owner a better chance at justice. Ranchers do not typically have the unlimited resources to pay lawyers that the oil and gas industry have at their disposal.
2. They are required to ***meet or exceed the requirements that our own government is held to*** for electric power lines, highways, etc. This includes routing decisions and environmental impact. Please understand that there is not anything more important than protecting access to clean water for the citizens of Texas. Additionally, protecting the trees, wildflowers and wildlife are the responsibility of the state of Texas. Please do your job.

3. They have governmental oversight that holds them accountable or the laws become meaningless. As it is now, any governmental oversight is meaningless because there are not significant laws that they must adhere to for environmental protection or citizen protection.
4. They are required to **compensate land owners for fair market value** of land taken for an easement, **AND pay royalties** to the land owner for the duration in which the pipe is in the ground. It is unjust that a land owner only gets paid for the land at the beginning of the project but does not have any compensation for the risk or loss of development rights for the duration that the pipeline is on their property.

Although oil and gas are important to the economy for the state of Texas, land owner rights and the preservation of the wildlife, clean water and clean air are the primary responsibilities of the government officials for the state of Texas.

Do you really want our government to simply be a rubber stamp for the oil and gas industry or do you want to truly represent the citizens of Texas and protect the wildlife and environment of our great state? We look forward to your reply.

Sincerely,

Jenny Carloye and Corky Kuhlmann

Public Comment for Land & Resource Management Interim Request
August 14, 2020

I am a citizen of and property owner in Blanco County. Witnessing Kinder Morgan's tragic, messy and unnecessary destruction of the Hill Country with their Permian Highway Pipeline has been challenging and heartbreaking. With that said, my brief comments about pipelines and eminent domain are:

1. It is WRONG for a company to seize private property for their profit and benefit.
2. It is WRONG to seize private property with no regard for or input from tax-paying landowners, low-ball financial compensation, no public comment, and no environmental impact considerations.
3. It is HYPOCRITICAL to pay lip service to property rights in Texas and then allow oil and gas companies to do as they please.
4. The laws need to be changed to protect Texas property owners!

Thank you for this opportunity to comment.

Jennifer Catherine Oines
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August 14, 2020

Chairman Tom Craddick
House Committee on Land & Resource Management

Re: Eminent Domain

Dear Chairman Craddick

I am a landowner which has been directly impacted by the Permian Highway Pipeline being constructed by Kinder Morgan. My land was "taken" through the eminent domain process officially October of 2019. Until I experienced this travesty, I had always been under the misguided impression that as a landowner in Texas my rights over the control of my land were undeniable. I quickly found that this is not the case and that through the bastardization of eminent domain Oil and Gas was given the loophole they needed to arbitrarily choose a route and "take" your land.

I am not a NIMBY or a Green New Deal proponent, I understand the benefit of the O&G industry and the revenue it brings to the state. My husband retired from Exxon so I don't believe in biting the hand that feeds you, but I do believe that there should be a process for the routing of pipelines and not someone in a Houston, Denver or name a city to be able to look at a map, mark a route and begin the process of eminent domain to take your land. Eminent domain started with a noble beginning of improving the nation and our state with much needed infrastructure and that was truly for the "common good" however it is now for the common good of shareholders and corporations. Before someone is granted a "common carrier" status I think there should be a review of what that will do for the citizens of Texas. A for profit company decides that they are going to move a product that may or may not be used in Texas and in the case of PHP it is going overseas and to Mexico. Who is benefiting from this? Not any of us along the route just the corporation yet they are granted the power of eminent domain and allowed to low ball an offer and when that fails, we go to condemnation. Do you have any idea, or do you even care how difficult it is for some landowners to go through that process? You have to hire a lawyer, get appraisals and sit there as they talk about the benefit of the pipeline and make you feel you are not a good citizen if you aren't willing to allow them to construct their pipeline because it is crucial to the state. You are old enough to remember an up and coming politician that once compared rape to the weather and said you should just lay back and enjoy. That ruined his political and ambitions and somewhat his personal reputation. Well this is how we as landowners have been made to feel by Kinder Morgan through the process and you and other elected officials have allowed that to happen to us. The tide is turning and you have a choice as to whether you recognize the need for change to eminent domain or face that the once Red Hill Country is looking more purple and we will vote for those

who hear our voices. Leveling the playing field for landowners is not going to stop or even hinder O&G. Their profits may not be as large initially but through working with and not against the landowners, the continuous lawsuits and protest that have caused numerous delays would not be necessary. Delays in their construction is costing them more than if they would have been fair and just with the landowners initially. Change is inevitable and you have the opportunity to be part of that change. I ask that you consider the eminent domain laws that will be presented this session and work to find a common ground that we can work with or be prepared to see a change you will not have a voice in because the power you once had will be taken by those who have listened to the landowners of Texas.

Respectfully

Kay Pence
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Fredericksburg, TX

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August 14, 2020

The Honorable Tom Craddick, Chairman
House Committee on Land and Resource Management
Texas Capitol
Post Office Box 2910
Austin, Texas 78768

Speaker Craddick,

The Permian Basin Petroleum Association (PBPA) respectfully submits this letter for consideration in response to the Texas House Committee on Land and Resource Management's formal request for information related to Interim Charges dated July 20, 2020.

As you know the Permian Basin is the most productive oilfield in the United States and the world. Its regional expansion in Texas and New Mexico accounted for a peak of about 5 million barrels per day of crude oil and 18,000 mcf of natural gas in 2019 and its impact to state coffers in Texas have been unmatched.

"The Permian Basin: Enriching Texas," a joint report with PBPA and the Texas Taxpayers and Research Association Foundation, highlights the region's prominence in both oilfield production and state economic contributions. The Permian Basin comprises 26 percent of Texas' land area and is home to one of the thickest deposits of rock from the Permian Period (251 to 299 million years ago). It contains numerous oil and gas producing formations and in April 2019, Forbes Magazine named it the "World's Top Oil Producer," replacing Saudi Arabia's Ghawar oilfield.

The impact of the oil and gas sector in Texas is vast.

In 2019 in Texas alone, the Permian Basin was responsible for \$9 billion in severance taxes and royalties paid to the state to utilize widely in basic functions of government including property tax relief, school finance reform, hurricane disaster recovery, and much more. In a state of roughly 28 million Texans, that amounted to a contribution of \$312 for every man, woman, and child in the state, or the equivalent of \$937 for a family of three. Absent this revenue, the average Texan would either have had to accept a lower amount of services from state and local governments or would have had to pay that much more in taxes in the Lone Star State.

PBPA represents those who are responsible for this huge expansion of oil and gas development in the state and it is vital for our region to have adequate access to infrastructure that safely and efficiently transports this product to market for the benefit of those in our state as well as America's continued energy security.

We share the comments and concerns provided to the Committee by others within the industry, but we seek to offer the following public comment as well to provide our members' perspective on the issues before the Committee.

Specifically this letter seeks to address Interim Charge 3 which reads as follows:

3. Study property owner's rights in eminent domain to examine and make recommendations on what should and should not constitute an actual progress to ensure the right of property owners to repurchase property seized through eminent domain by a condemning entity.

Section 21.101(b), Texas Property Code, currently establishes seven specific circumstances that when two are completed, satisfy "actual progress" as it relates to the process by which an owner may repurchase property seized through eminent domain.

For reference, the seven circumstances that demonstrate "actual progress" include the completion of two of the following:

- (1) the performance of a significant amount of labor to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;
- (2) the provision of a significant amount of materials to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;
- (3) the hiring of and performance of a significant amount of work by an architect, engineer, or surveyor to prepare a plan or plat that includes the property or other property acquired for the same public use project for which the property owner's property was acquired;
- (4) application for state or federal funds to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;
- (5) application for a state or federal permit to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;
- (6) the acquisition of a tract or parcel of real property adjacent to the property for the same public use project for which the owner's property was acquired; or
- (7) for a governmental entity, the adoption by a majority of the entity's governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one action described by Subdivisions (1)-(6) before the 10th anniversary of the date of acquisition of the property.

It is known that the vast majority of acquisitions occurring in Texas are through negotiations with landowners and not condemnation, and we agree that an entity should have to demonstrate progress. However, we believe that what is currently constituted as "actual progress" requires a significant level of investment, employment, and commitment to currently abide by the law, and are not aware of a significant need to alter these standards.

As midstream assets remain an important part of ensuring that Permian Basin natural resources may be marketed across the country, we would be concerned to see shifts away from current law that create a higher threshold of satisfaction than what currently exists. The existing law seems sufficient and already takes into account the practical challenge of acquiring hundreds of miles of right of way.

Our association firmly believes that there is middle ground for all parties to ensure that critical resources and infrastructure developed for the public good continues to benefit the great state of Texas.

Thank you for the opportunity to share with you our perspective and please don't hesitate to reach out if we may be of further service to you or the Committee.

Regards,

A handwritten signature in black ink, appearing to read "Ben Shepperd". The signature is fluid and cursive, with the first name "Ben" and last name "Shepperd" clearly distinguishable.

Ben Shepperd
President

**POPE, HARDWICKE
CHRISTIE, SCHELL, KELLY & TAPLETT, L.L.P.**
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LEE F. CHRISTIE
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ROBERT E. HARDWICKE
(1889 – 1970)

ALEX POPE, JR.
(1913 – 1988)

ROBERT E. HARDWICKE, JR.
(1917 – 1991)

August 9, 2020

Via Email: Tom.Craddick@house.texas.gov

The Honorable Tom Craddick
Chairman
House Land & Resource Management Committee
Texas House of Representatives
P.O. Box 2910, Room 1W.9
Austin, Texas 78768

Re: Interim Charge 3: “Actual Progress” in Eminent Domain

Dear Chairman Craddick and Honorable Committee Members:

This letter is submitted in response to the Committee’s Notice of Formal Request for Information dated July 20, 2020.

The undersigned practices law in the field of eminent domain and has done so for approximately 25 years. The practice includes representation of both condemning authorities and landowners. The undersigned also represents the Tarrant Regional Water District (“TRWD”), one of the state’s largest providers of raw water, which ultimately supplies approximately four million end users. To accomplish that mission, TRWD has constructed four major surface reservoirs and hundreds of miles of pipelines to transport water. As a result, it must inevitably use the power of eminent domain in a small percentage of acquisitions. The scope and duration of these undertakings have created an acute awareness of the importance of repurchase rights and the definition of “actual progress.”

Repurchase Rights and “Actual Progress” – Current Law

In 2003, the legislature added Section 21.101 to the Property Code, which created a right in condemnees to repurchase property acquired through eminent domain if the public use for which the property was acquired was “canceled before the 10th anniversary of the date of acquisition.”¹

¹ Acts 2003, 78th Leg., Ch. 1307, § 2 eff January 1, 2004.

In 2011, as part of the sweeping eminent domain bill passed as SB 18, Section 21.101 was significantly amended,² and now reads in its entirety as follows:

V.T.C.A., Property Code § 21.101
§ 21.101. Right of Repurchase
Effective: September 1, 2011

(a) A person from whom a real property interest is acquired by an entity through eminent domain for a public use, or that person's heirs, successors, or assigns, is entitled to repurchase the property as provided by this subchapter if:

(1) the public use for which the property was acquired through eminent domain is canceled before the property is used for that public use;

(2) no actual progress is made toward the public use for which the property was acquired between the date of acquisition and the 10th anniversary of that date; or

(3) the property becomes unnecessary for the public use for which the property was acquired, or a substantially similar public use, before the 10th anniversary of the date of acquisition.

(b) In this section, "actual progress" means the completion of two or more of the following actions:

(1) the performance of a significant amount of labor to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(2) the provision of a significant amount of materials to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(3) the hiring of and performance of a significant amount of work by an architect, engineer, or surveyor to prepare a plan or plat that includes the property or other property acquired for the same public use project for which the property owner's property was acquired;

(4) application for state or federal funds to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(5) application for a state or federal permit to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(6) the acquisition of a tract or parcel of real property adjacent to the property for the same public use project for which the owner's property was acquired; or

(7) for a governmental entity, the adoption by a majority of the entity's governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one action described by Subdivisions (1)-(6) before the 10th anniversary of the date of acquisition of the property.

² Acts 2011, 82nd Leg. Ch. 81 (SB 18), § 19, eff. September 1, 2011.

(c) A district court may determine all issues in any suit regarding the repurchase of a real property interest acquired through eminent domain by the former property owner or the owner's heirs, successors, or assigns.

The 2011 amendment introduced the concept of “actual progress,” but, as noted, essentially created 7 “safe harbors,”³ the satisfaction of two of which would constitute “actual progress.”

Analysis

While the current version of Section 21.101 does a fair job of balancing the interests of condemning authorities and landowners, we respectfully submit that the “one size fits all” set of safe harbors should either be expanded generally, or, preferably, tailored to affect specific types of entities differently.

For example, large water projects such as reservoirs may take decades to complete due to the sheer size, cost, and the significant regulatory hurdles. While it is unfair for a condemnee to acquire property for a project which never gets built, placing unrealistic time limits without a recognition of the different challenges presented by some projects is likewise unfair and a waste of public resources if the property has to be reacquired.

As a specific example, Richland Chambers Reservoir in East Texas was permitted by the state in 1957. However, it was not able to be constructed until the late 1980's due to multiple legal challenges. Further, the sheer size of the footprint (some 43,000 acres), took years to acquire. Property acquisition alone may take a decade or more, as some owners may exercise their rights to appeal and may challenge the condemnor's right to use eminent domain at all. Those cases must be resolved before the taxpayers and ratepayers should be asked to invest hundreds of millions (if not billions) of dollars in actual construction to satisfy certain of the “safe harbors.” Thus, a focus on physical work on the ground to demonstrate “actual progress” is, we think, too narrow.

³ Subsequent unsuccessful legislation has sought to reduce the number of “safe harbors.” *See, e.g.*, HB 1253 and SB 554 (2019); HB 2076, SB 528 and SB 628 (2017); HB 1562, HB 2457 and SB 479 (2015); and HB 20, HB 476 and SB 180 (2013).

Recommendation

We respectfully recommend that Section 21.101 be retained; however, if the Legislature believes amendments are necessary, we suggest considering language that recognizes the differences between types of infrastructure projects and we would be happy to work with the committee to achieve that goal.

Respectfully submitted,

/s/ Lee F. Christie

Lee F. Christie

LFC/bt

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August 14, 2020

The Honorable Tom Craddick
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

RE: House Land & Resource Management Committee
Interim Charge on Landowner's Bill of Rights

Chairman Craddick and Committee Members –

The Texas Alliance of Energy Producers (the Alliance) appreciates the opportunity to comment on the committee's second interim charge relating to reviewing the efficacy of the Landowner's Bill of Rights. With over 2,600 members, the Alliance is the largest state oil and gas association in the United States. Our members hail from nearly 30 states and 300 cities. We represent the exploration and production segment of the oil and gas industry; our members are oil and gas operators/producers, service and drilling companies, royalty owners, and a host of affiliated companies and industries in Texas and beyond.

As we have testified to this committee before, we believe an eminent domain process that works well, which provides certainty for critical infrastructure projects and protects private property rights, is vital to not only the wellbeing of our industry, but to the entire state's economy. We appreciate the Committee on Land and Resource Management taking the issue of eminent domain reform so seriously. The Alliance believes that eminent domain reform is needed in Texas and we are committed to working with all stakeholders and this committee toward that end.

We believe that Senate Bill 421 during the 86th Legislative Session, as passed out of this committee and the full House, is a great starting point for legislation in the 87th Legislative Session. That bill struck a fine balance between the landowner interests that must be protected and the importance of infrastructure projects to Texas' economy.

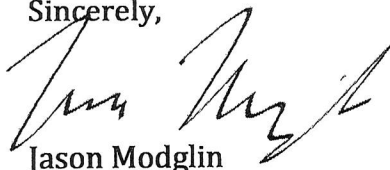
Regarding the committee's second interim charge, the Alliance would like to see the statutory requirements of the Landowner's Bill of Rights (LBoR) be amended by the

Texas Alliance of Energy Producers
1000 West Avenue, Suite B
Austin, TX 78701

legislature in the upcoming session. As currently written, the LBoR puts the parties in land negotiation deals on confrontational footing unnecessarily, which sets up the rest of the transaction to be much more difficult than it should be. We believe this document can be helpful to informing landowners of their rights and know it would be beneficial for all parties if the legislature provides more prescriptive direction to the LBoR's construction.

We applaud your leadership of this committee for taking up these issues of critical importance and look forward to working with you in the upcoming legislative session toward a resolution that protects our economy and strives to incorporate concerns from all stakeholders.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jason Modglin', written in a cursive style.

Jason Modglin
President



Texas and Southwestern Cattle Raisers Association

1301 W. SEVENTH ST. ★ SUITE 201 ★ FORT WORTH, TEXAS 76102-2665
817-332-7064 ★ 800-242-7820 ★ F:817-332-6441 ★ WWW.TSCRA.ORG

The Cattleman



CATTLE RAISERS
INSURANCE™

Aug. 14, 2020

G. Hughes Abell
First Vice President
Texas and Southwestern Cattle Raisers Association
1301 W. Seventh Street
Suite 201
Fort Worth, Texas 76102
tscra@tscra.org
(817) 832-3621

To the Honorable Chairman Tom Craddick and Members of the House Committee on Land and Resource Management:

The Texas and Southwestern Cattle Raisers Association (TSCRA) greatly appreciates the opportunity to provide comments on the House Land and Resource Management Committee interim charge to:

Study property owner's rights in eminent domain to examine and make recommendations on what should and should not constitute an actual progress to ensure the right of property owners to repurchase property seized through eminent domain by a condemning entity.

The Texas and Southwestern Cattle Raisers Association was founded in 1877 to combat cattle rustling and other issues facing ranchers at the time. Today, the Association continues its mission of protecting the stewards of land and livestock in the Southwest by advocating for sound public policy on issues that impact cattle producers and landowners.

TSCRA boasts more than 17,500 beef cattle operations, ranching families and businesses as members. These members represent approximately 55,000 individuals directly involved in ranching and beef production who manage 76 million acres of range and pastureland, primarily in Texas, Oklahoma and throughout the Southwest.

Nowhere is TSCRA's advocacy more critical than in the realm of private property rights. These rights are fundamental to the freedom and independence of all Texans and essential to cattle production.

Texas ranchers depend on the use of their private property throughout the state to not only feed their families but feed the nation. Their work and the productivity of their land contributes \$12 billion in sales to the state's economy every year, making cattle the largest contributor to the Texas agriculture economy.

When land is removed from agricultural production through eminent domain, it is detrimental both to the landowner and the nation's food supply. As such, it is imperative that eminent domain be utilized only when absolutely necessary and only at such a time when the condemning entity is prepared to make

use of the land they are seizing. Further, any acquisition for public use must have a precisely defined end procedure to return the property to the landowner if the project is not timely completed.

Large infrastructure projects often require extensive planning and lengthy completion timelines, with land acquisition usually occurring early within the process. Such projects can also face unforeseen pitfalls that result in interminable delays or even total abandonment. While we recognize the necessity and value of such a thorough planning process and the potential for unanticipated challenges, every effort should be undertaken by the condemnor and the State to ensure land is not taken prematurely or on a speculative basis.

When once productive land is seized too hastily or a project abandoned, the land frequently sits vacant, becoming overgrown and a nuisance to the community and adjacent landowners. While vacant, the land does not fulfill its promised role of serving a public use. It also no longer contributes to the state's robust agricultural economy, provides food for consumers, or benefits its former owner.

To help mitigate these issues, the Texas Legislature enacted Section 21.101 of the Property Code, which provides landowners with the right to repurchase their property from a condemning entity if certain progress is not made within ten years of the condemnation.

The right to repurchase is necessary to ensure that property is either used for the public good for which it was condemned or returned to the previous owner for their use and economic benefit. As currently written in statute, the right to repurchase likely encourages to some extent responsible and timely condemnation; however, it is rarely utilized in practice.

The extensive period granted to condemnors and overly broad definition of "actual progress" within the current statute provides the opportunity for condemnors to unduly prolong their control of the property without providing the public good for which it was intended.

Texas property owners would benefit greatly from revisions to Section 21.101 of the Property Code to strengthen the right to repurchase, making its use more realistic.

To do so, we recommend that the definition of actual progress include not two, but three of the provisions listed in Section 21.101 subsection (b).

Further, the action currently numbered in subsection (b) as (6)—acquiring adjacent lands for use in the same project—should be removed in its entirety. If a condemning entity has failed to make meaningful progress on a project, the condemnation of adjacent tracts only exacerbates the concerns outlined above and draws other landowners into the same scenario.

The Committee should also strongly consider removing subcategories (3), (4) and (5), as they represent items that should have been completed prior to acquisition of the property, and (7), which provides governmental entities an opportunity to ignore the bulk of subsection (b).

We also recommend adding a provision to address agricultural and open-space valuation on a repurchased tract. Land used for agricultural purposes is often accompanied by agricultural or open-space valuation provided for under Section 1-d or 1-d-1 of Article VIII of the Texas Constitution.

If property is condemned, it is very possible that the special valuation will lapse before the owner has the right to repurchase the property and return it agricultural use. If this occurs, the associated increase in the property tax rate may effectively prohibit the reacquisition of the property for agricultural use. To reacquire special valuation is lengthy and costly. The land must be used primarily for agricultural or timber use for three of the five preceding years to qualify for open-space valuation or the immediate three years preceding qualification for agricultural valuation.

We ask that the Committee consider language within Section 21.101 to ensure that if condemned property is repurchased that it immediately qualifies for any special valuation that it received prior to the condemnation.

In addition, the price of repurchase should be discounted by sum equal to the lost productivity of the land over the time it was condemned and any expenses incurred by the landowner as a result of the condemnation. Though it does not always occur in practice, the statute assumes that when land is condemned, the compensation includes loss of productivity. The landowner loses that productivity during the years the land is condemned regardless of their right or ability to repurchase the land. As such, they should be compensated accordingly.

Further, a successful bid to repurchase previously condemned land would indicate that the original condemnation was unnecessary to serve a public good. If unnecessary, the condemnation is an overreach of governmental authority for which the original property owner should not bear any expense.

Lastly, the current 10-year period offered to condemnors to demonstrate actual progress is excessive. It is a travesty to see land condemned, only to sit idle for a decade when it could have contributed untold economic and agricultural benefit to the state and its previous owner.

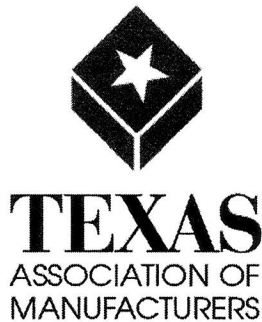
Texas citizens must be able to hold condemnors accountable when land is seized under the pretense of public use but fails to meet that expectation in a timely manner. We urge the Committee to collect additional data on the frequency of use and consider reducing the time available to condemnors to demonstrate actual progress to five years, a more appropriate level that balances the need for infrastructure planning with Texas property owners' rights.

Again, we thank Chairman Craddick and Members of the House Committee on Land and Resource Management for your attention to these critical issues.

The Texas and Southwestern Cattle Raisers Association is committed to bettering the private property rights of our members and stands ready to assist in any way possible as the Committee explores improvements to Texas' eminent domain process.

Sincerely,

G. Hughes Abell
First Vice President
Texas and Southwestern Cattle Raisers Association



To: Texas House Committee on Land & Resource Management
From: Tony Bennett, President & CEO, Texas Association of Manufacturers
Date: August 14, 2020
Re: Committee request for information regarding interim charges

The Texas Association of Manufacturers (TAM) represents over 600 manufacturing companies in Texas, including 70 of the state's largest industry employers. Manufacturing is a core element of the Texas economy, directly employing over 869,000 workers who earn an average compensation of more than \$82,500 annually. Moreover, a typical manufacturing job supports 3.8 additional jobs in our state, with some industry sectors, such as petrochemical - which uses Texas oil and gas – providing even higher related job multiples. Viewed in this manner, manufacturing accounts for about 30% of our state's overall employment.

Manufacturing plants are energy intensive operations and require well-orchestrated logistics to receive raw materials and supplies, and then ship finished products to customers worldwide. These activities require an ever-expanding network of infrastructure, including pipelines, utility rights-of-way, highway corridors, etc., that are the vital arteries necessary in sustaining these operations.

Past reform attempts in the Legislature could have been major threats to keeping our infrastructure network functioning efficiently and sustaining the quality business environment our great state is known for across the globe. Major delays in any permits to either build manufacturing plants or connect vital arteries to these operations already cost our economy millions of dollars each day. Delays in new construction jobs, plant payrolls, new local & state tax revenue, vendor purchases and other ripple effects on our regional economies are real and substantial.

Property rights should be protected. However, previous proposed legislation went too far and would have held hostage a key element of our economy. Additionally, the legislation would have endangered the quality jobs and tax wealth our Texas communities and families depend on.



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MICKEY EDWARDS
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JOHN K. GRIFFITH
Alto

PETE J. PAWELEK
Poteet

ALLEN KAMINSKI
Sealy

ZACHARY X. YANTA
Runge

SCOTT FRAZIER
Chapman Ranch

August 14, 2020

The Honorable Tom Craddick
Chair, House Committee on Land & Resource Management
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910

RE: Interim charge's #2 and #3 of the House Land & Resource
Management Committee's Interim Charges of the 86th Legislature

Dear Mr. Speaker and Committee Members:

Texas Farm Bureau appreciates the opportunity to provide comments on our perspective on the efficacy of the Landowners' Bill of Rights and the "buy-back" provisions within Chapter 21 of the Texas Property Code in protecting private property rights.

Texas Farm Bureau's policies are driven by our membership. As a grassroots organization of over 517,000 member families we represent an increasing number of both urban and rural property owners who have been impacted by eminent domain. Many share with us the issues they faced in negotiating fair compensation and general protections in easement terms with entities that yield the power of eminent domain.

Texas Farm Bureau does not oppose the judicious use of eminent domain, even by private corporations, as long as it's used explicitly for public use and private property rights are protected.

With regards to the interim charge on the efficacy of the Landowner Bill of Rights, while this document is helpful in explaining the CURRENT statutory requirements of the eminent domain process, it is not an avenue to address the deficiencies in the statute that allow entities with eminent domain to manipulate or force landowners into bad deals.

Based on the many reports we've received from property owners about the manipulation and intimidation tactics they've encountered, it's impossible for an informational document to protect property owners from the various tactics condemnors use to take private property. The statutory process that condemning entities are required to use to voluntarily acquire property must be amended to address these issues.

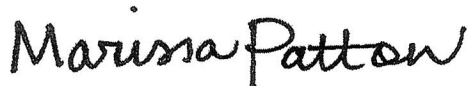
The Landowner Bill of Rights won't ensure property owners receive a fair initial offer that reflects the compensation required by the constitution. And, it won't address providing property owners with easement terms that ensure their rights are protected. Property owners need additional statutory rights under Section 21.0113 of the Property Code to address these issues.

Regarding the buy-back provisions in Chapter 21, Texas Farm Bureau is supportive of legislation like HB 1253 filed by Representative Ben Leman, last session. We support requiring additional actions be taken to prove actual progress. Progress should be actual actions that are part of the physical construction of the project. Not merely, drafting a plan, adopting a plan, or purchasing a single tract of land or real property right. Our members expect the actual construction should begin within the ten-year period if property is being forcibly taken for a project.

Texas Farm Bureau's goal is to improve the eminent domain process for property owners that make it impossible for eminent domain abuses to occur. Texas landowners and agriculture producers face continued future demand on their resources. We seek meaningful improvements to protect private property rights which enable us to continue being a vital component in the food supply chain for our state and nation. And, a national leader in producing food and fiber.

Thank you for taking our comments and please don't hesitate to reach out for further questions.

Sincerely,

A handwritten signature in black ink that reads "Marissa Patton". The script is cursive and fluid, with the first name "Marissa" and last name "Patton" clearly distinguishable.

Marissa Patton
Associate Legislative Director



August 14, 2020

The Honorable Tom Craddick, Chairman
House Land and Resource Management Committee
P.O. Box 2910
Austin, Texas 78768

Chairman Tom Craddick:

On behalf of the Texas Independent Producers and Royalty Owners Association (TIPRO), I would like to express our appreciation for the opportunity to provide written comment on the House Committee on Land and Resource Management's Interim Charges 2 and 3.

TIPRO is one of the largest statewide trade associations in Texas representing the oil and natural gas industry. Our members include the largest producers of oil and gas in the state, as well as hundreds of small to mid-sized independent operators and royalty owners. Collectively, TIPRO members produce approximately 90 percent of the oil and natural gas in Texas and own mineral interests in millions of acres across the state. Our organization's mission, since its inception, is to preserve the ability of independent operators to explore for and produce oil and natural gas.

TIPRO has worked with the Coalition for Critical Infrastructure over the past sessions on reforms to the eminent domain process that provide transparency and accountability for landowners while maintaining the ability of Texas to build the infrastructure that our growing economy and population requires. We remain committed to working with all stakeholders on a system that recognizes the importance of the mineral estate in Texas, the necessity and safety of pipeline infrastructure, effective state laws and regulations that govern infrastructure development, and the protection of private property rights through those processes.

As you know, the Texas oil and gas industry continues to be a cornerstone of our state economy, currently supporting over 2 million direct and indirect jobs and providing billions of dollars in tax revenue annually that support all aspects of our state. In 2019, our state set a new record for oil and natural gas production with 1.8 billion barrels of oil and 10.4 trillion cubic feet of gas produced. And we expect to continue to set records for Texas oil and natural gas production as the world economy and the industry rebounds from the COVID-19 pandemic.

Due to this growth and the extraordinary benefits provided to our state, our industry has faced unique challenges, including takeaway capacity constraints in West Texas that could be further exacerbated by delays and additional expenses to critical pipeline infrastructure projects. Such actions could negatively impact oil and natural gas production, employment growth, and the generation of revenue for state coffers while potentially increasing the flaring of natural gas and dangerous road traffic and congestion, if companies are unable to transport their product through pipelines.

Interim Charge 2 directs the committee to review "the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain process and their rights and responsibilities under Chapter 21 of the [Texas] Property Code." TIPRO believes that the LBoR is an important instrument that should clearly define the rights of landowners in the eminent domain process. Our



organization would support simplifying the LBoR into uniform language promulgated by the legislature and requiring the LBoR to be presented ahead of right-of-way discussions.

Interim Charge Number 3 directs the committee to review “what should and should not constitute actual progress to ensure the right of property owners to repurchase property obtained through eminent domain.” TIPRO is on record as supporting Senate Bill 18 (82R), which defined the term “actual progress” in statute as it applies to eminent domain and the right to repurchase property. Our organization respects the rights of landowners to repurchase land taken through eminent domain that is not being used for its intended use. However, requiring additional measures to prove actual progress would only serve to create additional hurdles to completing critical infrastructure projects and increase expense without adding any additional benefit to the landowner.

TIPRO would like to express our appreciation to you and your fellow committee members for your diligent work during this challenging and unprecedented time. The leadership that you have demonstrated by facilitating feedback and discussion on these interim charges is commendable and for the betterment of the state. We look forward to continued work with the House Land and Resource Management Committee next session on these issues in order to provide transparency and accountability for landowners while maintaining Texas’ ability to build increasing necessary critical infrastructure.

Respectfully submitted,

Ed Longanecker

President

TIPRO

919 Congress Avenue, Suite 1000

Austin, TX 78701

Office: 512-477-4452 / Email: elonganecker@tipro.org

August 14, 2020

To: Chairman and Members
Texas House Committee on Land & Resource Management

From: Texas Pipeline Association
Thure Cannon, President

Subject: Interim Charge 2 and 3 Comments
Landowner Bill of Rights and Actual Progress

The Texas Pipeline Association (TPA) appreciates the opportunity to provide comments on the committee's Interim Charge 2 relating to modifying the Landowner Bill of Rights and Interim Charge 3 relating to Actual Progress.

TPA's membership is made up of over 40 member companies who are in the business of developing and operating critical pipeline infrastructure projects which transport petroleum products and natural gas throughout the state of Texas. The member companies in TPA are responsible for operating an overwhelming majority of the pipelines in Texas and engage in gathering, processing, treating, and transporting natural gas and liquids through Texas' vast system of intrastate pipelines.

Regarding Interim Charge 2 which requests a "review in the efficacy of the Landowner's Bill of Rights (LBoR) in explaining to landowners the eminent domain condemnation process and their rights and responsibilities under Chapter 21 of the Property Code," TPA concurs with the comments from the Coalition for Critical Infrastructure (CCI), of which TPA is a member, that it may be preferable for the Legislature to draft language of the LBoR and place the language in statute. The vast majority of all pipelines built in Texas do not invoke eminent domain and the use of eminent domain is never the industry's preferred approach in acquiring rights-of-way. A fair and transparent negotiation with landowners is a must and TPA supports open communication with landowners. A more straightforward and non-technical LBoR would enhance the process and provide increased transparency for landowners. TPA looks forward to working with the committee to produce a LBoR that reflects these goals and maintains the ability to build the needed infrastructure that makes the economy one of the strongest in the nation.

Regarding Interim Charge 3 which requests the committee to “review what should and should not constitute actual progress to ensure the right of property owners to repurchase property obtained by eminent domain,” TPA also concurs with the comments submitted by CCI. While TPA is unaware of any “actual progress” instances relating to hydrocarbon pipeline development, TPA feels it is important to take into account other types of infrastructure projects and any future changes in law that affects the ability to provide essential infrastructure for Texas. TPA stands ready to work with the committee on proposed reforms relating to this issue.

Again, thank you for the opportunity to submit written comments and we thank the committee for their leadership and service to our great state.

Respectfully Submitted,

Thure Cannon



Representative Tom Craddick
Chairman
Land and Resource Management Committee
1100 Congress Ave
Austin, TX 78701

Dear Chairman Craddick,

The Texas Real Estate Advocacy & Defense Coalition (TREAD) is a nonpartisan association with more than 600 members from across the state that advocates for and defends landowner rights at the state and local levels. TREAD respectfully submits testimony on Interim Charges 2 and 3 for the Land and Resource Management Committee.

The oil and gas industry is critical to our state's economy and many of our members have benefited from working in the industry but there is a need to reform current state regulations to streamline and expedite pipeline routing. In addition, there are opportunities to improve the condemnation process. We look forward to working with the Land Resource Management Committee on policy language to address pipeline routing reform and other provisions regarding condemnation.

Addressing Interim Charge 2, TREAD supports revising the Texas Landowner Bill of Rights to include a pipeline routing process that includes evaluating all viable routes.

Addressing Interim Charge 3, TREAD supports the Committee evaluating current property owner rights and the property owner's participation in the condemnation process. We encourage review of the oversight of condemnation along with a landowner's repurchasing power.

TREAD Coalition supports the oil and gas industry. The public, and our economy, benefit from the jobs and energy resources. We advocate for a fair and transparent pipeline routing process that provides property owner participation and protections.

Thank you for the opportunity to submit testimony before the Committee. Should you have questions or need additional information, do not hesitate to contact us.

Jessica Karlsruher
Executive Director
Texas Real Estate Advocacy & Defense Coalition (TREAD)
11601 US 290, Suite A101
Austin, TX 78737
Jessica@treadcoalition.org
512-337-1048

From: Yahoo <tracy78006@yahoo.com>
Sent: Friday, August 14, 2020 2:17 PM
To: Tom Craddick
Subject: Imminent Domain in Texas.

I am a Texan. My family has had a ranch in central Texas since 1879. My father worked at, and led LCRA. So we understand imminent domain, for the good of all.

The use of imminent domain by for profit companies, to send their extra oil and gas via pipelines to sell to foreign countries is NOT what it was intended for.

texas has always been a state proud of its land owners, its heritage and its independence.

I am horrified at the land grab, the lack of oversight and the RR commissioners total failure to hold anyone in government accountable for the actions of rich corporations.

You must hear us. Stop imminent domain use for selling our natural goods to foreign companies. Regulate the pipelines. Stop letting them take our land. Make them accountable for the disasters they are causing in our water supply.

Thankyou,

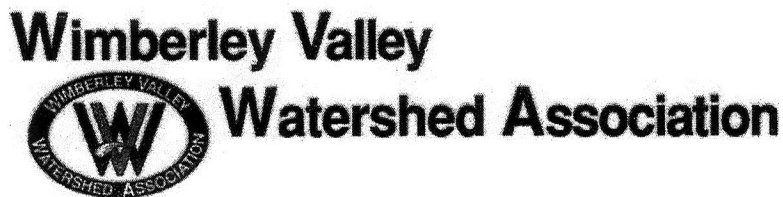
Tracy Sites

The Sites ranch

6255 FM 2325

Wimberley, Texas 78676

Sent from my iPad



David Baker, Executive Director
Malcolm Harris, President
Scott Price, Treasurer
Jason Pinchback, Secretary
Dorothy Knight
Pokey Rehmet
Parc Smith
Vanessa Puig-Williams

August 14, 2020

Honorable Rep. Tom Craddick, Chairman
Tom.Craddick@House.Texas.Gov
State of Texas House of Representatives
Land & Resource Management Committee

Honorable Chairman Rep. Tom Craddick:

Chairman Craddick and esteemed members of the Committee, I represent a 501c3 non-profit that I founded with local landowners in 1996. Today, we provide programs and services to our members, who include private property owners in the Wimberley Valley, the greater Hill Country, and across Texas. We were founded to protect the quality and quantity of water in Cypress Creek and the Blanco River. I have also served as Vice President of Hays Trinity Groundwater Conservation District, and was a founder of the Hill Country Land Trust and Greater Edwards Aquifer Alliance.

Our submission to #2 and #3 among the four Interim Charges you seek is informed by our landowner members and partner organizations in the decades of work we have pursued, preserving and protecting the land and water resources of Central Texas.

Since the Legislature was last in session, WVWA has been instrumental in educating rural landowners about the impacts associated with the Kinder Morgan Permian Highway Pipeline. To the extent the Landowner's Bill of Rights can address the pipeline's special exemption from federal environmental impact assessment requirements, purely because the pipeline was conceived as intrastate, this deserves immediate attention.

Environmental quality for land, water, and wildlife habitat is a community good that cannot be properly addressed parcel by parcel, landowner by landowner. A condemnor owes the state's citizens a reasonable look at the overall impact in totality of a taking, in addition to the impact piece by piece.

To more specific points, please recognize that good faith negotiations can only occur between comparably equipped parties. Too often, a landowner is at a disadvantage to a much larger, better funded, highly motivated condemning entity. The Landowner's Bill of Rights should provide for a reasonable timeframe and sharing of public information to offset the disparity of resources between condemnor and landowner.

Appraisals

Inasmuch as appraisals cannot adequately account for a taking, as opposed to a voluntary sale between willing parties, landowners deserve compensation above mere market value to account for unwanted condemnation.

An even easier action would be to close the loophole in the law that allows a condemning entity to submit an update appraisal immediately before a Special Commissioners hearing.

while a landowner is required to submit an appraisal at least three days before. Both parties should be on equal footing, submitting three days before.

Easement Valuations

Landowners should be allowed to bring in evidence of freely negotiated transactions on comparable easements. This is the only fair way to assess damages—by considering all comparable transactions in condemnation proceedings.

Civil Condemnation

Civil condemnation suit provisions are in practice a bridge too far and too expensive for landowners. Condemnation is a costly legal process with inequities at all stages of the process that mean landowners cannot be made “whole” by any reasonable interpretation. The process favors corporations’ superior access to capital and legal representation over individual Texans and their private property owners’ rights. The process should be more fair to landowners, allowing their voices to be collectively represented, rather than one by one.

Possession and Use Agreements

All uses and restrictions of the condemned property must be disclosed, and after condemnation properly enforced. The condemner must be reliably compelled to abide throughout the covenant, no matter who owns property in the future.

Landowners have found that condemners have violated provisions outlined in possession and use agreements regarding access and use of their land, but have been challenged to get proper enforcement. Provisions need to be enforceable. If they are not honored, a landowner should be allowed to recover damages from the condemnor.

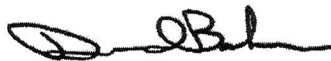
Lack of Bonding

Any jury award at the end of a condemnation legal proceeding should be paid or insured by a bond in that amount from a condemnor to guarantee payment to the prevailing landowner. Bankruptcy by a condemning entity should not be a strategy to deny payment of just compensation to landowners for the taking of their land.

WVWA is aligned with the principles espoused by Texas Landowners for Eminent Domain Reform, and finds common ground in the proposals and supported bills presented on the _____ website.

In the upcoming Legislative session, we commend your committee to right the balance of power and consideration and strengthen the Landowner’s Bill of Rights.

With great respect,



David Baker, Executive Director
Wimberley Valley Watershed Association
P.O. Box 2534, Wimberley, TX 78676

davidbaker@wimberleywatershed.org
Phone 512-722-3390